

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2220/P1dn

MDK:/:....

gjs

④ #. In the amendment of s. 196.02 (1), I refer to the statutes, because other statutes in addition to ch. 196 impose duties on the PSC.

change to special character "§"

Sen. Plale:

This draft is based on the proposal prepared by the Wisconsin State Telecommunications Association (WSTA proposal). Note that I made some changes to the WSTA proposal. Please also note the following:

1. Proposed s. 196.04 (4) (d) in the WSTA proposal states: "The information ... shall be considered a confidential trade secret under s. 196.14 and may be provided on a confidential basis." Instead of using that language, the draft provides instead that the PSC shall withhold the information from public inspection. I made this change because s. 196.14 does not use the term "trade secret". In addition, s. 196.14 allows, but does not require, the PSC to withhold certain information from public inspection. Also, the WSTA proposal first states that the information "shall" be considered confidential, but subsequently states that it "may" be provided confidentially. I assume that you want to require the PSC to do so. Please let me know whether my language is okay. ✓

2. The WSTA proposal includes the following language in the proposed amendment of s. 196.07 (1): "Information provided by a telecommunications utility or alternative telecommunications utility shall be granted provisional confidential treatment without the necessity of filing a request under s. PSC 2.12, Wis. Adm. Code." I did not include that language because I don't know what result it is intended to achieve. What does "provisional confidential treatment" mean? That term is not used in the cited PSC rule. Also, because the PSC might subsequently change its rules, you may want to consider how to achieve your intent without citing to a specific PSC rule. ✓

period stays

3. Note that s. 196.215 (5) (d) 1. and (7) (c) impose duties on the PSC based on the information filed under s. 196.07. Will the amendment of s. 196.07 (1) hamper the ability of the PSC to fulfill those duties? If so, should s. 196.215 (5) (d) 1. and (7) (c) be amended? ✓ ✓

4. Are the titles for s. 196.195 and 195.195 (1m) okay? ✓ ✓

5. The WSTA proposal defines the term, "basic single-party residential service," but uses the term, "basic service." Therefore, I defined the term, "basic service," and did not use the term, "basic single-party residential service." Also, note that I referred to "telecommunications service," rather than "service," in the definition. If you want to

use the term "basic single-party residential service," can you explain the significance "single-party residential"? ✓

6. The definition of "nonbasic service" in the WSTA proposal seems confusing. I made changes to the definition, but I'm still not certain of its meaning and I think we should discuss this issue further.

7. As I drafted the bill, there is no need to define "electing telecommunications utility" or "transition period." Note also that I moved the definitions from s. 196.01 to s. 196.195 (1m) (a). ✓

8. Note that in proposed s. 196.195 (1m) (b) 1., I refer to s. 196.194, and not to the tariffing requirements of s. 196.194. Why does the WSTA proposal refer only to the tariffing requirements?

9. Proposed s. 196.195 (1m) (d) should be revised to specify the types of orders and rules of the PSC that are superseded. In addition, you might want to specify the statutes under which a telecommunications utility has made a prior election of regulation. Also, what legal consequence are you trying to achieve by stating that an order or rule is "superceded"? You may need to add language that elaborates your meaning.

10. Why is proposed s. 196.195 (1m) (e) necessary? Also, if a telecommunications utility files a notice under the bill, why would the telecommunications utility want to maintain a tariff or price list with the PSC? ✓

11. What is the purpose of the notice required in proposed s. 196.195 (1m) (f)? What are the consequences if the person fails to provide the notice? Do you want to prohibit the person from providing local exchange service if the person does not provide the notice? If so, perhaps s. 196.50 (1) (b) 2. should be revised. ✓

12. Note that the deadline in proposed s. 196.195 (1m) (f) is blank. Please specify the number of days that you want for the deadline. ✓

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2220/P1dn
MDK:cjs:nwn

April 6, 2007

Sen. Plale:

This draft is based on the proposal prepared by the Wisconsin State Telecommunications Association (WSTA proposal). Note that I made some changes to the WSTA proposal. Please also note the following:

1. In the amendment of s. 196.02 (1), I refer to the statutes, because other statutes in addition to ch. 196 impose duties on the PSC.
2. Proposed s. 196.04 (4) (d) in the WSTA proposal states: "The information ... shall be considered a confidential trade secret under s. 196.14 and may be provided on a confidential basis." Instead of using that language, the draft provides instead that the PSC shall withhold the information from public inspection. I made this change because s. 196.14 does not use the term "trade secret". In addition, s. 196.14 allows, but does not require, the PSC to withhold certain information from public inspection. Also, the WSTA proposal first states that the information "shall" be considered confidential, but subsequently states that it "may" be provided confidentially. I assume that you want to require the PSC to do so. Please let me know whether my language is okay.
3. The WSTA proposal includes the following language in the proposed amendment of s. 196.07 (1): "Information provided by a telecommunications utility or alternative telecommunications utility shall be granted provisional confidential treatment without the necessity of filing a request under § PSC 2.12." I did not include that language because I don't know what result it is intended to achieve. What does "provisional confidential treatment" mean? That term is not used in the cited PSC rule. Also, because the PSC might subsequently change its rules, you may want to consider how to achieve your intent without citing to a specific PSC rule.
4. Note that s. 196.215 (5) (d) 1. and (7) (c) impose duties on the PSC based on the information filed under s. 196.07. Will the amendment of s. 196.07 (1) hamper the ability of the PSC to fulfill those duties? If so, should s. 196.215 (5) (d) 1. and (7) (c) be amended?
5. Are the titles for s. 196.195 and 195.195 (1m) okay?
6. The WSTA proposal defines the term, "basic single-party residential service," but uses the term, "basic service." Therefore, I defined the term, "basic service," and did

not use the term, "basic single-party residential service." Also, note that I referred to "telecommunications service," rather than "service," in the definition. If you want to use the term "basic single-party residential service," can you explain the significance "single-party residential"?

7. The definition of "nonbasic service" in the WSTA proposal seems confusing. I made changes to the definition, but I'm still not certain of its meaning and I think we should discuss this issue further.

8. As I drafted the bill, there is no need to define "electing telecommunications utility" or "transition period." Note also that I moved the definitions from s. 196.01 to s. 196.195 (1m) (a).

9. Note that in proposed s. 196.195 (1m) (b) 1., I refer to s. 196.194, and not to the tariffing requirements of s. 196.194. Why does the WSTA proposal refer only to the tariffing requirements?

10. Proposed s. 196.195 (1m) (d) should be revised to specify the types of orders and rules of the PSC that are superseded. In addition, you might want to specify the statutes under which a telecommunications utility has made a prior election of regulation. Also, what legal consequence are you trying to achieve by stating that an order or rule is "superceded"? You may need to add language that elaborates your meaning.

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12. What is the purpose of the notice required in proposed s. 196.195 (1m) (f)? What are the consequences if the person fails to provide the notice? Do you want to prohibit the person from providing local exchange service if the person does not provide the notice? If so, perhaps s. 196.50 (1) (b) 2. should be revised.

13. Note that the deadline in proposed s. 196.195 (1m) (f) is blank. Please specify the number of days that you want for the deadline.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Brian Rybick
Legal Counsel - WSTA
(608) 256-8866 ext. 23

CHRISTOPHER W. LAROWE

Manager of External Affairs
clarowe@wsta.info



121 East Wilson Street
Suite 102

Madison, WI 53703

Tel: 608.256.8866 Ext. 20

Fax: 608.256.2676

Website: www.wsta.info

Wisconsin State Telecommunications Association

stays

O-NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RM
has
been
run

INSERT
ANALYSIS

Regen Cat.

1 **AN ACT to renumber** 196.10 and 196.78; **to amend** 196.02 (1), 196.02 (4) (a),
2 196.02 (4) (b) (intro.), 196.07 (1) and 196.195 (title); and **to create** 196.02 (4)
3 (bm), 196.10 (2), 196.195 (1m) and 196.78 (1) of the statutes; **relating to:** the
4 regulation of certain telecommunications utilities and the public service
5 commission's jurisdiction over public utilities in general.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 196.02 (1) of the statutes is amended to read:
7 196.02 (1) JURISDICTION. The commission has jurisdiction to supervise and
8 regulate every public utility in this state and to do all things necessary and

1 ~~convenient to its jurisdiction~~ take actions that are reasonably necessary to carry out
2 its regulatory functions under the statutes.

3 **SECTION 2.** 196.02 (4) (a) of the statutes is amended to read:

4 196.02 (4) (a) The commission may inquire into the management of the
5 business of all public utilities. The commission shall keep itself informed as to the
6 manner and method in which the same is conducted. The commission may obtain
7 from any public utility ~~any information~~ that is reasonably necessary to enable the
8 commission to perform its duties.

9 **SECTION 3.** 196.02 (4) (b) (intro.) of the statutes is amended to read:

10 196.02 (4) (b) (intro.) Each public utility, except for a telecommunications
11 utility or alternative telecommunications utility, shall furnish to the commission, in
12 such form and at such times as the commission requires, the following information
13 respecting the identity of the holders of its voting capital stock in order to enable the
14 commission to determine whether the holders constitute an affiliated interest within
15 the meaning of this chapter:

16 **SECTION 4.** 196.02 (4) (bm) of the statutes is created to read:

17 196.02 (4) (bm) Each telecommunication^s utility or alternative
18 telecommunications utility shall furnish the commission with the name of each
19 holder of 5 percent or more of the voting capital stock of the utility and the nature
20 of the property right or equitable interest which each such holder has in the stock.
21 ~~The commission shall withhold~~ any information furnished under this paragraph
22 from public inspection.

23 **SECTION 5.** 196.07 (1) of the statutes is amended to read:

24 196.07 (1) Each public utility shall close its accounts annually on December 31
25 and promptly prepare a balance sheet of that date. On or before the following April

INSERT
2-21

1 May 1 every public utility shall file with the commission the balance sheet together
2 with any other information the commission prescribes, except that the information
3 filed by a telecommunications utility or alternative telecommunications utility shall
4 include only a balance sheet, a count of the access lines served by the utility, and
5 information needed to calculate contributions to the universal service fund under s.
6 196.218 (3). The information submitted under this subsection shall be verified by an
7 officer of the public utility. The commission, for good cause shown, may extend the
8 time for filing the balance sheet and prescribed information. INSERT 3-8

9 SECTION 6. 196.10 of the statutes is renumbered 196.10 (1).

10 SECTION 7. 196.10 (2) of the statutes is created to read:

11 196.10 (2) This section does not apply to telecommunications utilities or
12 alternative telecommunications utilities.

13 SECTION 8. 196.195 (title) of the statutes is amended to read:

14 196.195 (title) **Partial deregulation of competitive telecommunications**
15 **services.**

16 SECTION 9. 196.195 (1m) of the statutes is created to read:

17 196.195 (1m) ELECTIVE DEREGULATION. (a) In this subsection:

18 1. "Basic service" means ~~a telecommunications service that includes only~~
19 touch-tone service, access to emergency service, local usage, and extended area
20 service.

21 2. "Nonbasic service" means a ~~telecommunications~~ service that is not a basic
22 service ~~including a telecommunications service that is included in a service package~~
23 ~~or bundle that also includes a basic service.~~

24 (b) Upon a telecommunication^s utility's filing of written notice to the
25 commission, all of the following apply:

INSERT
3-17

SECTION 9

1. Beginning on the effective date of the notice, the nonbasic service of the telecommunications utility is not ^{with respect to any} subject to ^{ch. 201.05 and s.} ss. 196.12, 196.13, 196.19, ~~196.194~~, 196.196 (1), (4), or (5), 196.198, 196.20, 196.204 (7), 196.207, 196.21, 196.213, 196.215, 196.217, 196.22, 196.26, 196.28, 196.37, 196.52, 196.58, 196.60, 196.604, or 196.77. ^{or tariffing requirements under s. 196.194}

2. Beginning 2 years after the effective date of the notice, ^{any} the basic service of the telecommunications utility is not subject to the statutes specified in subd. 1. ^{offered by}

3. During the first year after the effective date of the notice, the telecommunications utility may not charge a rate for basic service that is more than 15 percent higher than the rate charged immediately before ~~the provision of~~ ^{filing the} notice.

4. During the 2nd year after the effective date of the notice, the telecommunications utility may not charge a rate for basic service that is more than 15 percent higher than the rate charged during the previous year. ^{60th}

(c) The effective date of a notice filed under par. (b) is the ^{INSEAT 4-15} 30th day after filing of the notice. ^{corresponding}

(d) The filing of a notice by a telecommunications utility under par. (b) supersedes any prior election of regulation by the telecommunications utility ^{under this chapter and} or any order issued ^{under par. (b)} or rule promulgated by the commission prior to the notice of election.

(e) The filing of a notice by a telecommunications utility under par. (b) shall not affect the ability of the telecommunications utility to maintain a tariff or price list with the commission.

(f) If a telecommunications utility files a notice under par. (b), the telecommunications utility is considered to have granted consent for purposes of s. 196.50 (1) (b) 2. b. A person ^{may not rely} ^{unless the person} relying on this paragraph to demonstrate that a telecommunications utility has granted such consent shall provide written notice to

60

1 the commission and the telecommunications utility at least ~~###~~ days prior to
2 providing local exchange service, as defined in s. 196.50 (1) (b) 1., in the
3 telecommunication^s/utility's service territory.

****NOTE: As noted in the drafter's note, please supply a deadline for the above.

4 **SECTION 10.** 196.78 of the statutes is renumbered 196.78 (2).

5 **SECTION 11.** 196.78 (1) of the statutes is created to read:

6 196.78 (1) In this section, "public utility" does not include a
7 telecommunications utility that files a notice under s. 196.195 (1m) (b).

8 (END)

1

INSERT ANALYSIS:

This bill does the following: 1) allows a telecommunications utility to elect to exempt its offering of basic and nonbasic services from certain statutes; 2) makes changes to filing requirements applicable to telecommunications utilities and alternative telecommunications utilities; and 3) makes changes to the jurisdiction of the Public Service Commission (PSC) over public utilities.

Elective exemption. The bill allows a telecommunications utility to elect to exempt its basic and nonbasic services from certain statutes administered by the PSC. The bill defines "basic service" as touch-tone service, access to emergency service, local usage, or extended area service. "Nonbasic service" is defined as any service that is not a basic service. The bill allows a telecommunications utility to elect exemption by filing a notice with the PSC. Nonbasic service is exempt from the specified statutes beginning on the effective date of the notice and basic service is exempt beginning ^{two} 2 years after the effective date. However, if basic service is included in a service package or bundle offered by the telecommunications utility or an affiliate, and the service package or bundle also includes nonbasic service, then that basic service is treated like nonbasic service and it is exempt beginning on the effective date of the notice.

In general, the effective date of a notice is the date that the telecommunications utility files the notice. However, if the PSC under current law has issued the telecommunications utility a certificate of authority as a telecommunications utility or has determined that the telecommunications utility is an alternative telecommunications utility, the effective date of the notice is the 60th day after the filing date.

Beginning on the dates discussed above, ^{with respect to its} basic and nonbasic services ~~are exempt~~ from the following statutory requirements: 1) certain reporting, filing, tariffing, caller identification, and promotional rate requirements; 2) pricing requirements for basic local exchange service, small business standard business access lines and usage, and basic message telecommunications service; 3) infrastructure investment requirements; 4) a prohibition against charging residential customers for local basic local exchange service based on the duration of a call or on the time of day of the call; 5) requirements regarding discontinuance of service; 6) a prohibition against providing certain electronically published news, feature, or entertainment material; 7) requirements regarding rate increases that apply to telecommunications that have less than 50,000 access lines in this state; 8) requirements regarding charging different rates for certain types of service; 9) requirements for PSC investigations regarding rates, services, and other matters; 10) requirements for PSC approval of certain contracts; 11) certain requirements regarding municipal authority over public utility services and physical plant additions and extensions; ~~12) a requirement to pay treble damages for certain violations of laws; 13) and~~ requirements applicable to the issuance of securities.

12)
a telecommunications utility
is not subject to

percent
percent
second
If a telecommunications utility files a notice, then, during the first year after the effective date of the notice, the telecommunications utility may not charge a rate for basic service that is more than 15% higher than the rate charged immediately before filing the notice. During the 2nd year after the effective date of the notice, the telecommunications utility may not charge a rate for basic service that is more than 15% higher than the rate charged during the previous year. In addition, if a telecommunications utility files a notice, a corporation or limited liability company that owns or operates the telecommunications utility is not required to obtain the PSC consent that is required under current law in order to dissolve. Also, if the telecommunications utility has 150,000 or less access lines, then the telecommunication utility is considered to have consented to allowing another person to provide local exchange service in the same municipality in which the telecommunications utility provides such service. Under another statute administered by the PSC, such consent is, under certain circumstances, required before the other person is allowed to provide such service in the municipality. The bill requires such a person to give the PSC and the telecommunications utility 60 days prior notice before providing such service in the municipality if the other person relies on the telecommunications utility's consent as demonstrated under the bill.

percent
Filing requirements. Current law requires public utilities to furnish to the PSC the following information about the utility's voting stockholders: 1) the names of each person holding 1% or more of the voting stock; 2) the nature of the property right or other legal or equitable interest of each voting stockholder; and 3) any other information required by the PSC. Under the bill, if the public utility is a telecommunications utility or alternative telecommunications utility, the public utility must furnish only the names of each person holding 5% or more of the voting stock, as well as the nature of the property right or other legal or equitable interest of each voting stockholder. The bill also requires the PSC to withhold from public inspection such information that is furnished by telecommunications utilities and alternative telecommunications utilities. percent

percent
Current law also requires public utilities to file balance sheets with the PSC, in addition to any other information prescribed by the PSC. Such information must be filed annually by April 1. The bill changes the filing deadline to May 1. In addition, the bill requires telecommunications utilities and alternative telecommunications utilities to file only the following: 1) a balance sheet; 2) a count of access lines; and 3) information needed to calculate contributions to the universal service fund. The bill requires the PSC to withhold such filings from public inspection.

In addition, current law allows the PSC to obtain accounting information regarding construction activities from public utilities. The bill prohibits the PSC from obtaining such information from telecommunications utilities and alternative telecommunications utilities.

PSC jurisdiction. Current law provides the PSC has jurisdiction to regulate public utilities and do all things necessary and convenient to its jurisdiction. Instead of providing that the PSC may do all things necessary and convenient to its jurisdiction, the bill provides that the PSC may take actions that are reasonably

necessary to carry out its regulatory functions under the statutes. Current law also provides that the PSC may obtain from a public utility any information necessary to enable the PSC to perform its duties. The bill provides instead that the PSC may obtain information that is reasonably necessary to enable the PSC to perform its duties.

INSERT 2-21:

shall be filed with the commission on a confidential basis and the commission shall withhold the information

INSERT 3-8:

The information submitted by a telecommunications utility or alternative telecommunications utility under this subsection shall be filed with the commission on a confidential basis and the commission shall withhold the information from public inspection.

INSERT 3-17:

1. "Affiliate," when used in relation to a telecommunication^s utility, means a person who owns or controls, is owned or controlled by, or is under common ownership or control with, the telecommunications utility.

INSERT 4-2:

and with respect to
, or any basic service included in a service package or bundle that is offered by the telecommunications utility or an affiliate and that also includes any nonbasic service, *the telecommunications utility*

INSERT 4-15:

, except that if the commission has issued a certificate of authority to the telecommunications utility under s. 196.50 (2) or the commission has determined under s. 196.203 (2) that the telecommunications utility is an alternative telecommunications utility, the effective date is the date of the filing

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2220/1dn

MDK:4:....

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Sen. Plale:

To accomplish your intent, I changed the substantive requirements for the elective exemption, instead of the definitions for "basic service" and "nonbasic service." Please review my changes and let me know whether they are okay.

Mark D. Kunkel
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

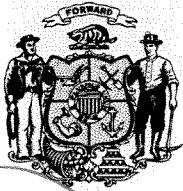
LRB-2220/1dn
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May 4, 2007

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2220/1

MDK:cjs:rs

2007 BILL

Friday
5-25
PM

SA ✓

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RM has
been
run

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- 1 AN ACT *to renumber* 196.10 and 196.78; *to amend* 196.02 (1), 196.02 (4) (a),
2 196.02 (4) (b) (intro.) and 196.07 (1); and *to create* 196.02 (4) (bm), 196.10 (2),
3 196.195 (1m) and 196.78 (1) of the statutes; **relating to:** the regulation of
4 certain telecommunications utilities and the public service commission's
5 jurisdiction over public utilities in general.

Analysis by the Legislative Reference Bureau

This bill does the following: 1) allows a telecommunications utility to elect to exempt its offering of basic and nonbasic services from certain statutes; 2) makes changes to filing requirements applicable to telecommunications utilities and alternative telecommunications utilities; and 3) makes changes to the jurisdiction of the Public Service Commission (PSC) over public utilities.

Elective exemption. The bill allows a telecommunications utility to elect to exempt its basic and nonbasic services from certain statutes administered by the PSC. The bill defines "basic service" as touch-tone service, access to emergency service, local usage, or extended area service. "Nonbasic service" is defined as any service that is not a basic service. The bill allows a telecommunications utility to elect exemption by filing a notice with the PSC. Nonbasic service is exempt from the specified statutes beginning on the effective date of the notice and basic service is exempt beginning two years after the effective date. However, if basic service is included in a service package or bundle offered by the telecommunications utility or an affiliate, and the service package or bundle also includes nonbasic service, then

BILL

that basic service is treated like nonbasic service and it is exempt beginning on the effective date of the notice.

In general, the effective date of a notice is the ~~date that~~ ⁹ the telecommunications utility files the notice. However, if the PSC under current law has issued the telecommunications utility a certificate of authority as a telecommunications utility or has determined that the telecommunications utility is an alternative telecommunications utility, the effective date of the notice is the ~~60th day after the~~ ^{another} filing date.

Beginning on the dates discussed above, with respect to its basic and nonbasic services, a telecommunications utility is not subject to the following statutory requirements: 1) certain reporting, filing, tariffing, caller identification, and promotional rate requirements; 2) pricing requirements for basic local exchange service, small business standard business access lines and usage, and basic message telecommunications service; 3) infrastructure investment requirements; 4) a prohibition against charging residential customers for basic local exchange service based on the duration of a call or on the time of day of the call; 5) requirements regarding discontinuance of service; 6) a prohibition against providing certain electronically published news, feature, or entertainment material; 7) requirements regarding rate increases that apply to telecommunications that have less than 50,000 access lines in this state; 8) requirements regarding charging different rates for certain types of service; 9) requirements for PSC investigations regarding rates, services, and other matters; 10) requirements for PSC approval of certain contracts; 11) certain requirements regarding municipal authority over public utility services and physical plant additions and extensions; and 12) requirements applicable to the issuance of securities.

If a telecommunications utility files a notice, then, during the first year after the effective date of the notice, the telecommunications utility may not charge a rate for basic service that is more than 15 percent higher than the rate charged immediately before filing the notice. During the second year after the effective date of the notice, the telecommunications utility may not charge a rate for basic service that is more than 15 percent higher than the rate charged during the previous year. In addition, if a telecommunications utility files a notice, a corporation or limited liability company that owns or operates the telecommunications utility is not required to obtain the PSC consent that is required under current law in order to dissolve. Also, if the telecommunications utility has 150,000 or less access lines, then the telecommunications utility is considered to have consented to allowing another person to provide local exchange service in the same municipality in which the telecommunications utility provides such service. Under another statute administered by the PSC, such consent is, under certain circumstances, required before the other person is allowed to provide such service in the municipality. The bill requires such a person to give the PSC and the telecommunications utility 60 days prior notice before providing such service in the municipality if the other person relies on the telecommunications utility's consent as demonstrated under the bill.

Filing requirements. Current law requires public utilities to furnish to the PSC the following information about the utility's voting stockholders: 1) the names

60th day after

BILL

of each person holding 1 percent or more of the voting stock; 2) the nature of the property right or other legal or equitable interest of each voting stockholder; and 3) any other information required by the PSC. Under the bill, if the public utility is a telecommunications utility or alternative telecommunications utility, the public utility must furnish only the names of each person holding 5 percent or more of the voting stock, as well as the nature of the property right or other legal or equitable interest of each voting stockholder. The bill also requires the PSC to withhold from public inspection such information that is furnished by telecommunications utilities and alternative telecommunications utilities.

Current law also requires public utilities to file balance sheets with the PSC, in addition to any other information prescribed by the PSC. Such information must be filed annually by April 1. The bill changes the filing deadline to May 1. In addition, the bill requires telecommunications utilities and alternative telecommunications utilities to file only the following: 1) a balance sheet; 2) a count of access lines; and 3) information needed to calculate contributions to the universal service fund. The bill requires the PSC to withhold such filings from public inspection.

In addition, current law allows the PSC to obtain accounting information regarding construction activities from public utilities. The bill prohibits the PSC from obtaining such information from telecommunications utilities and alternative telecommunications utilities.

PSC jurisdiction. Current law provides the PSC has jurisdiction to regulate public utilities and do all things necessary and convenient to its jurisdiction. Instead of providing that the PSC may do all things necessary and convenient to its jurisdiction, the bill provides that the PSC may take actions that are reasonably necessary to carry out its regulatory functions under the statutes. Current law also provides that the PSC may obtain from a public utility any information necessary to enable the PSC to perform its duties. The bill provides instead that the PSC may obtain information that is reasonably necessary to enable the PSC to perform its duties.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 196.02 (1) of the statutes is amended to read:
- 2 196.02 (1) JURISDICTION. The commission has jurisdiction to supervise and
- 3 regulate every public utility in this state and to ~~do all things necessary and~~

BILL**SECTION 1**

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2 its regulatory functions under the statutes.

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17 196.02 (4) (bm) Each telecommunications utility or alternative
18 telecommunications utility shall furnish the commission with the name of each
19 holder of 5 percent or more of the voting capital stock of the utility and the nature
20 of the property right or equitable interest which each such holder has in the stock.
21 Any information furnished under this paragraph shall be filed with the commission
22 on a confidential basis and the commission shall withhold the information from
23 public inspection.

24 **SECTION 5.** 196.07 (1) of the statutes is amended to read:

BILL

1 196.07 (1) Each public utility shall close its accounts annually on December 31
2 and promptly prepare a balance sheet of that date. On or before the following April
3 May 1 every public utility shall file with the commission the balance sheet together
4 with any other information the commission prescribes, except that the information
5 filed by a telecommunications utility or alternative telecommunications utility shall
6 include only a balance sheet, a count of the access lines served by the utility, and
7 information needed to calculate contributions to the universal service fund under s.
8 196.218 (3). The information submitted under this subsection shall be verified by an
9 officer of the public utility. The commission, for good cause shown, may extend the
10 time for filing the balance sheet and prescribed information. The information
11 submitted by a telecommunications utility or alternative telecommunications utility
12 under this subsection shall be filed with the commission on a confidential basis and
13 the commission shall withhold the information from public inspection.

14 **SECTION 6.** 196.10 of the statutes is renumbered 196.10 (1).

15 **SECTION 7.** 196.10 (2) of the statutes is created to read:

16 196.10 (2) This section does not apply to telecommunications utilities or
17 alternative telecommunications utilities.

18 **SECTION 8.** 196.195 (1m) of the statutes is created to read:

19 196.195 (1m) ELECTIVE DEREGULATION. (a) In this subsection:

20 1. "Affiliate," when used in relation to a telecommunications utility, means a
21 person who owns or controls, is owned or controlled by, or is under common
22 ownership or control with, the telecommunications utility.

23 2. "Basic service" means touch-tone service, access to emergency service, local
24 usage, or extended area service.

25 3. "Nonbasic service" means a service that is not a basic service.

BILL

SECTION 8

1 (b) Upon a telecommunications utility's filing of written notice to the
2 commission, all of the following apply:

3 1. Beginning on the effective date of the notice, with respect to any nonbasic
4 service offered by the telecommunications utility, and with respect to any basic
5 service included in a service package or bundle that is offered by the
6 telecommunications utility or an affiliate and that also includes any nonbasic
7 service, the telecommunications utility is not subject to ch. 201 or s. 196.12, 196.13,
8 196.19, 196.196 (1), (4), or (5), 196.198, 196.20, 196.204 (7), 196.207, 196.21, 196.213,
9 196.215, 196.217, 196.22, 196.26, 196.28, 196.37, 196.52, 196.58, 196.60, 196.604, or
10 196.77 or tariffing requirements under s. 196.194.

11 2. Beginning 2 years after the effective date of the notice, any basic service
12 offered by the telecommunications utility is not subject to the statutes specified in
13 subd. 1.

14 3. During the first year after the effective date of the notice, the
15 telecommunications utility may not charge a rate for basic service that is more than
16 15 percent higher than the rate charged immediately before filing the notice.

17 4. During the 2nd year after the effective date of the notice, the
18 telecommunications utility may not charge a rate for basic service that is more than
19 15 percent higher than the rate charged during the previous year.

20 (c) The effective date of a notice filed under par. (b) is the 60th day after filing
21 of the notice, except that if the commission has issued a certificate of authority to the
22 telecommunications utility under s. 196.50 (2) or the commission has determined
23 under s. 196.203 (2) that ~~the~~ telecommunications utility is an alternative
24 telecommunications utility, the effective date is the date of the filing.

INSERT 6-21

that other

that other

INSERT 6-21

BILL

(d) The filing of a notice by a telecommunications utility under par. (b) supersedes any prior election of regulation by the telecommunications utility under this chapter and any corresponding order issued by the commission prior to the notice of election under par. (b).

(e) If a telecommunications utility files a notice under par. (b), the telecommunications utility is considered to have granted consent for purposes of s. 196.50 (1) (b) 2. b. A person may not rely on this paragraph to demonstrate that a telecommunications utility has granted such consent unless the person provides written notice to the commission and the telecommunications utility at least 60 days prior to providing local exchange service, as defined in s. 196.50 (1) (b) 1., in the telecommunications utility's service territory.

12 **SECTION 9.** 196.78 of the statutes is renumbered 196.78 (2).

13 **SECTION 10.** 196.78 (1) of the statutes is created to read:

14 196.78 (1) In this section, “public utility” does not include a
15 telecommunications utility that files a notice under s. 196.195 (1m) (b).

16 (END)

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2220/lins
MDK:.....

1

INSERT 2A:

2

and that other telecommunications utility provides telecommunications service in

3

the same service territory as the telecommunications utility that filed the notice,

4

INSERT 6-21:

5

another telecommunications utility provides telecommunications service in the

6

same service territory as the telecommunications utility that filed the notice and



State of Wisconsin
2007 - 2008 LEGISLATURE

UABW TUE

LRB-2220/2

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2007 BILL

Repeal

1 AN ACT *to renumber* 196.10 and 196.78; *to amend* 196.02 (1), 196.02 (4) (a),
2 196.02 (4) (b) (intro.) and 196.07 (1); and *to create* 196.02 (4) (bm), 196.10 (2),
3 196.195 (1m) and 196.78 (1) of the statutes; **relating to:** the regulation of
4 certain telecommunications utilities and the public service commission's
5 jurisdiction over public utilities in general.

Analysis by the Legislative Reference Bureau

This bill does the following: 1) allows a telecommunications utility to elect to exempt its offering of basic and nonbasic services from certain statutes; 2) makes changes to filing requirements applicable to telecommunications utilities and alternative telecommunications utilities; and 3) makes changes to the jurisdiction of the Public Service Commission (PSC) over public utilities.

Elective exemption. The bill allows a telecommunications utility to elect to exempt its basic and nonbasic services from certain statutes administered by the PSC. The bill defines "basic service" as touch-tone service, access to emergency service, local usage, or extended area service. "Nonbasic service" is defined as any service that is not a basic service. The bill allows a telecommunications utility to elect exemption by filing a notice with the PSC. Nonbasic service is exempt from the specified statutes beginning on the effective date of the notice and basic service is exempt beginning two years after the effective date. However, if basic service is included in a service package or bundle offered by the telecommunications utility or an affiliate, and the service package or bundle also includes nonbasic service, then

BILL*is certified to provide*

that basic service is treated like nonbasic service and it is exempt beginning on the effective date of the notice.

In general, the effective date of a notice is the 60th day after the telecommunications utility files the notice. However, if ~~the PSC under current law has issued~~ another telecommunications utility a certificate of authority as a telecommunications utility or has determined that the telecommunications utility is an alternative telecommunications utility, and that other telecommunications utility provides telecommunications service in the same service territory as the telecommunications utility that filed the notice, the effective date of the notice is the filing date.

Beginning on the dates discussed above, with respect to its basic and nonbasic services, a telecommunications utility is not subject to the following statutory requirements: 1) certain reporting, filing, tariffing, caller identification, and promotional rate requirements; 2) pricing requirements for basic local exchange service, small business standard business access lines and usage, and basic message telecommunications service; 3) infrastructure investment requirements; 4) a prohibition against charging residential customers for basic local exchange service based on the duration of a call or on the time of day of the call; 5) requirements regarding discontinuance of service; 6) a prohibition against providing certain electronically published news, feature, or entertainment material; 7) requirements regarding rate increases that apply to telecommunications that have less than 50,000 access lines in this state; 8) requirements regarding charging different rates for certain types of service; 9) requirements for PSC investigations regarding rates, services, and other matters; 10) requirements for PSC approval of certain contracts; 11) certain requirements regarding municipal authority over public utility services and physical plant additions and extensions; and 12) requirements applicable to the issuance of securities.

If a telecommunications utility files a notice, then, during the first year after the effective date of the notice, the telecommunications utility may not charge a rate for basic service that is more than 15 percent higher than the rate charged immediately before filing the notice. During the second year after the effective date of the notice, the telecommunications utility may not charge a rate for basic service that is more than 15 percent higher than the rate charged during the previous year. In addition, if a telecommunications utility files a notice, a corporation or limited liability company that owns or operates the telecommunications utility is not required to obtain the PSC consent that is required under current law in order to dissolve. Also, if the telecommunications utility has 150,000 or less access lines, then the telecommunications utility is considered to have consented to allowing another person to provide local exchange service in the same municipality in which the telecommunications utility provides such service. Under another statute administered by the PSC, such consent is, under certain circumstances, required before the other person is allowed to provide such service in the municipality. The bill requires such a person to give the PSC and the telecommunications utility 60 days prior notice before providing such service in the municipality if the other person relies on the telecommunications utility's consent as demonstrated under the bill.

BILL

Filing requirements. Current law requires public utilities to furnish to the PSC the following information about the utility's voting stockholders: 1) the names of each person holding 1 percent or more of the voting stock; 2) the nature of the property right or other legal or equitable interest of each voting stockholder; and 3) any other information required by the PSC. Under the bill, if the public utility is a telecommunications utility or alternative telecommunications utility, the public utility must furnish only the names of each person holding 5 percent or more of the voting stock, as well as the nature of the property right or other legal or equitable interest of each voting stockholder. The bill also requires the PSC to withhold from public inspection such information that is furnished by telecommunications utilities and alternative telecommunications utilities.

Current law also requires public utilities to file balance sheets with the PSC, in addition to any other information prescribed by the PSC. Such information must be filed annually by April 1. The bill changes the filing deadline to May 1. In addition, the bill requires telecommunications utilities and alternative telecommunications utilities to file only the following: 1) a balance sheet; 2) a count of access lines; and 3) information needed to calculate contributions to the universal service fund. The bill requires the PSC to withhold such filings from public inspection.

In addition, current law allows the PSC to obtain accounting information regarding construction activities from public utilities. The bill prohibits the PSC from obtaining such information from telecommunications utilities and alternative telecommunications utilities.

PSC jurisdiction. Current law provides the PSC has jurisdiction to regulate public utilities and do all things necessary and convenient to its jurisdiction. Instead of providing that the PSC may do all things necessary and convenient to its jurisdiction, the bill provides that the PSC may take actions that are reasonably necessary to carry out its regulatory functions under the statutes. Current law also provides that the PSC may obtain from a public utility any information necessary to enable the PSC to perform its duties. The bill provides instead that the PSC may obtain information that is reasonably necessary to enable the PSC to perform its duties.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 196.02 (1) of the statutes is amended to read:
- 2 196.02 (1) JURISDICTION. The commission has jurisdiction to supervise and
- 3 regulate every public utility in this state and to ~~do all things necessary and~~

BILL**SECTION 1**

1 ~~convenient to its jurisdiction~~ take actions that are reasonably necessary to carry out
2 its regulatory functions under the statutes.

3 **SECTION 2.** 196.02 (4) (a) of the statutes is amended to read:

4 196.02 (4) (a) The commission may inquire into the management of the
5 business of all public utilities. The commission shall keep itself informed as to the
6 manner and method in which the same is conducted. The commission may obtain
7 from any public utility ~~any information~~ that is reasonably necessary to enable the
8 commission to perform its duties.

9 **SECTION 3.** 196.02 (4) (b) (intro.) of the statutes is amended to read:

10 196.02 (4) (b) (intro.) Each public utility, except for a telecommunications
11 utility or alternative telecommunications utility, shall furnish to the commission, in
12 such form and at such times as the commission requires, the following information
13 respecting the identity of the holders of its voting capital stock in order to enable the
14 commission to determine whether the holders constitute an affiliated interest within
15 the meaning of this chapter:

16 **SECTION 4.** 196.02 (4) (bm) of the statutes is created to read:

17 196.02 (4) (bm) Each telecommunications utility or alternative
18 telecommunications utility shall furnish the commission with the name of each
19 holder of 5 percent or more of the voting capital stock of the utility and the nature
20 of the property right or equitable interest which each such holder has in the stock.
21 Any information furnished under this paragraph shall be filed with the commission
22 on a confidential basis and the commission shall withhold the information from
23 public inspection.

24 **SECTION 5.** 196.07 (1) of the statutes is amended to read:

BILL

1 196.07 (1) Each public utility shall close its accounts annually on December 31
2 and promptly prepare a balance sheet of that date. On or before the following April
3 May 1 every public utility shall file with the commission the balance sheet together
4 with any other information the commission prescribes, except that the information
5 filed by a telecommunications utility or alternative telecommunications utility shall
6 include only a balance sheet, a count of the access lines served by the utility, and
7 information needed to calculate contributions to the universal service fund under s.
8 196.218 (3). The information submitted under this subsection shall be verified by an
9 officer of the public utility. The commission, for good cause shown, may extend the
10 time for filing the balance sheet and prescribed information. The information
11 submitted by a telecommunications utility or alternative telecommunications utility
12 under this subsection shall be filed with the commission on a confidential basis and
13 the commission shall withhold the information from public inspection.

14 **SECTION 6.** 196.10 of the statutes is renumbered 196.10 (1).

15 **SECTION 7.** 196.10 (2) of the statutes is created to read:

16 196.10 (2) This section does not apply to telecommunications utilities or
17 alternative telecommunications utilities.

18 **SECTION 8.** 196.195 (1m) of the statutes is created to read:

19 196.195 (1m) ELECTIVE DEREGULATION. (a) In this subsection:

20 1. "Affiliate," when used in relation to a telecommunications utility, means a
21 person who owns or controls, is owned or controlled by, or is under common
22 ownership or control with, the telecommunications utility.

23 2. "Basic service" means touch-tone service, access to emergency service, local
24 usage, or extended area service.

25 3. "Nonbasic service" means a service that is not a basic service.

BILL**SECTION 8**

1 (b) Upon a telecommunications utility's filing of written notice to the
2 commission, all of the following apply:

3 1. Beginning on the effective date of the notice, with respect to any nonbasic
4 service offered by the telecommunications utility, and with respect to any basic
5 service included in a service package or bundle that is offered by the
6 telecommunications utility or an affiliate and that also includes any nonbasic
7 service, the telecommunications utility is not subject to ch. 201 or s. 196.12, 196.13,
8 196.19, 196.196 (1), (4), or (5), 196.198, 196.20, 196.204 (7), 196.207, 196.21, 196.213,
9 196.215, 196.217, 196.22, 196.26, 196.28, 196.37, 196.52, 196.58, 196.60, 196.604, or
10 196.77 or tariffing requirements under s. 196.194.

11 2. Beginning 2 years after the effective date of the notice, any basic service
12 offered by the telecommunications utility is not subject to the statutes specified in
13 subd. 1.

14 3. During the first year after the effective date of the notice, the
15 telecommunications utility may not charge a rate for basic service that is more than
16 15 percent higher than the rate charged immediately before filing the notice.

17 4. During the 2nd year after the effective date of the notice, the
18 telecommunications utility may not charge a rate for basic service that is more than
19 15 percent higher than the rate charged during the previous year.

20 (c) The effective date of a notice filed under par. (b) is the 60th day after filing
21 of the notice, except that the effective date is the date of the filing if another
22 telecommunications utility ^{is certified to provide} provides telecommunications service in the same service
23 territory as the telecommunications utility that filed the notice and the commission
24 ~~has issued a certificate of authority to that other telecommunications utility under~~

BILL

1 s. 196.50 (2) or the commission has determined under s. 196.203 (2) that that other
2 telecommunications utility is an alternative telecommunications utility.

3 (d) The filing of a notice by a telecommunications utility under par. (b)
4 supersedes any prior election of regulation by the telecommunications utility under
5 this chapter and any corresponding order issued by the commission prior to the
6 notice of election under par. (b).

7 (e) If a telecommunications utility files a notice under par. (b), the
8 telecommunications utility is considered to have granted consent for purposes of s.
9 196.50 (1) (b) 2. b. A person may not rely on this paragraph to demonstrate that a
10 telecommunications utility has granted such consent unless the person provides
11 written notice to the commission and the telecommunications utility at least 60 days
12 prior to providing local exchange service, as defined in s. 196.50 (1) (b) 1., in the
13 telecommunications utility's service territory.

14 **SECTION 9.** 196.78 of the statutes is renumbered 196.78 (2).

15 **SECTION 10.** 196.78 (1) of the statutes is created to read:

16 196.78 (1) In this section, "public utility" does not include a
17 telecommunications utility that files a notice under s. 196.195 (1m) (b).

18 (END)

Kunkel, Mark

From: Brian Rybarik [brybarik@wsta.info]
Sent: Friday, August 10, 2007 1:34 PM
To: Kunkel, Mark
Cc: Bill Esbeck; Chris LaRowe
Subject: RE: Most recent draft and drafter's note
Attachments: LRB 2220-3 with edits.pdf

Mark:

I have included a .pdf version of LRB 2220/3 with a few modifications that we would like included (i.e., the creation of a slash 4). I used the editing tools in adobe acrobat, which are admittedly a bit inefficient. Hopefully you will be able to decipher the notes that I have included and the edits I have made. If it is too difficult, please give me a call and we can talk through the changes.

Thanks for all your help on this...

Brian J. Rybarik
Legal Counsel and Manager of Regulatory Affairs
Wisconsin State Telecommunications Association
121 E. Wilson St., Suite 102
Madison, WI 53703
(608) 256-8866 ext. 23

-----Original Message-----

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Monday, May 07, 2007 11:01 AM
To: Brian J. Rybarik
Subject: Most recent draft and drafter's note

<<07-2220/1>> <<07-2220/1dn>>

Mark D. Kunkel
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-0131